workable. I had been at pains for some time to include these in the Section concerned, and I did not succeed, as pointed out in my speech to-day. There are many difficulties in the way. In the first place, the officers administering the loans under the several heads specified will be different; for instance, the agricultural loans will have to be made by the Land Revenue officers, while those for manure, etc., by officers of the Agricultural Department. In the case of the latter loans, the amounts may be repaid at short intervals within a year, while in the former, the amounts will have to be repaid in many years. In the mode of realisation also, there will be a difference. I do not know whether it is desirable to include seeds among agricultural works. Sections 4 to 7 of the existing Regulation are, according to the opinion of many experts, cumbrous and unworkable. They have therefore to be deleted. With reference to the discretion vested in the Tahsildars in the matter of notice, I have to say that the Section was purposely put in at the suggestion of some of the Revenue officers for various reasons. The Tahsildar may be of opinion that no notice is necessary. The applicant may be very solvent and the Tahsildar may be fully statisfied that the applicant is entitled to receive the loan, and yet if a notice is to be published in such a case, there would be a long and unnecessary delay in the disposal of the application. Whether a notice should be given or not should therefore be left to his discretion. With reference to the amount of loan, which each officer should be empowered to give, it may vary from time to time and with the officers of the various departments. If these matters are put in the Regulation, it will become very rigid and unworkable. To make the Regulation elastic, the Government are empowered to make rules so as to suit different conditions without going through the elaborate process of introducing amending Bills and getting them passed. I fear that my friend has not fully grasped the object with which the Bill is framed, and I accordingly move that the principle of the Bill be affirmed."

Mr. Subba Aiyar's motion was carried.

Mr. Subba Aiyar then moved that the Bill be referred to a Select Committee consisting of Messrs. Rengaswamy Aiyangar, Kuriyan, Govinda Menon, Subramanya Pillai and the Mover to report within three months.

Seconded by Mr Paul Daniel.

Carried.

THE CRIMINAL LAW AMENDMENT BILL.

Mr. Subba Aiyar presented the report of the Select Committee on the Criminal Law Amendment Bill and moved that the report and the Bill be taken up for consideration at once.

Seconded by Mr. Rengaswamy Aiyengar.

Carried.

CLAUSE 4.

Mr. Sesha Aiyar, in moving that the whole of Clause 4 be deleted and that the following Clauses be renumbered, spoke as follows :—

"Sir,

The amendment that I move is that Clause 4 of the Criminal Law Amendment Bill as revised by the Select Committee, *i. e.*, the Clause that was just now read and that is marked in the Bill as Sections 110 A and 110 B be deleted. When the learned Head Sirkar Vakil introduced this Bill in Council, he explained that the Travancore Penal Code followed closely the Indian Penal Code, and that the Clauses in the Bill were intended to bring our Regulation into conformity with the British Indian Statute. He also appealed to the Criminal Law of England under which conspiracy is made punishable even if no overt act or illegal omission takes place in furtherance or pursuance of the conspiracy. After this Bill was referred to the Select Committee, we find that the two Non-official members that sat on the Select Committee appointed to consider this Bill have recorded their opinion that the Clause relating to conspiracy must be deleted. I have given my most anxious consideration to this provision of the Bill, and I beg leave to state that I have not been able to perceive any adequate or acceptable reason for the creation of this new offence.

We have been referred to the precedent in the British Indian Statute; and the present Clause is taken from the Indian Criminal Law Amendment Act, VIII of 1913. The reference, however, to the British Indian precedent is, it seems to me, misleading. In the Statement of Objects and Reasons that accompanied the Indian Bill it was stated in justification of that measure "Experience has shown that dangerous conspiracies are entered into in India which have for their object aims other than the commission of the offence specified in Section 121 A of the Indian Penal Code, and that the existing law is inadequate to deal with modern conditions". Not one word of this grave statement applies to Travancore, where no altered circumstances or conditions have sprung up so as to render the creation of the offence of criminal conspiracy necessary. The Indian enactment that constituted conspiracy a distinct offence was an emergent measure passed in view of the special circumstances that then existed. One might naturally ask what are the exceptional circumstances that have suddenly come into being in Travancore that have necessitated the introduction of this dangerous provision. In our State, Section 113 of our Penal Code, which corresponds to Section 121 A of the Indian Penal Code, has been the only Section hitherto under which a mere conspiracy to do an illegal act, that does not go beyond a conspiracy, is made punishable; and, so far as I know, no new situation

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has developed that renders the extension of the law of criminal conspiracy necessary in respect of offences other than those specified in Section 113. It has not been stated or even suggested that such extension is now needed to enable Government effectually to deal with any anticipated emergent or dangerous situation.

This part of the Bill distinctly aims at enlarging the field of the crime, and such aim cannot be regarded as legitimate unless there exists the clearest necessity for doing so. The occasion or necessity for spelling out this new offence is not obvious; the history of the times in this State does not call for it; the mischief or evil intended to be cured is, it seems to me, wholly imaginary. In these circumstances, I cannot agree to the creation of this new offence and I must repeat once again that reference to the British Indian precedent is rather misleading.

This Clause may be regarded from another standpoint. It is a well known rule of interpretation that when the language of a Statute is clear and explicit, it must be enforced exactly as it stands and without any regard whatever to the result that may flow from it. The rule applies to penal as well as to other Statutes. Although penal Statutes are to be construed strictly; yet they are not to be so construed as to exclude from the operation of the Statute cases which the words in their ordinary acceptation or in the sense in which Legislature obviously used them would comprehend. Now looking at the new offence for which a place is sought in our Penal Code, we find that an agreement of two or more persons to do or cause to be done an act which is illegal or which is to be done by illegal means will constitute criminal conspiracy. The expression 'illegal' bears a definite significance in the Penal Code. Section 37 says "the word 'illegal' is applicable to every thing which is an offence, or which is prohibited by law, or which furnishes ground for civil action". Every one knows that when a Statute contains an interpretation clause we are bound to adopt the construction which it prescribes, and understand the words in the sense in which they are therein defined, although otherwise the language might have been held to mean something different. Criminal conspiracy as conceived in the Bill is, therefore, dangerously comprehensive. Even a case of civil trespass would become indictable as criminal conspiracy under the definition; and thus it would, I conceive, go beyond even the English law, which the learned Mover appealed to as justification for this provision, following the example of Sir Regenald Craddock, the parent of Act VIII of 1913. The learned Mover stated that the law of conspiracy had been in existence in England from about the 14th century, and that afforded, he said, a sufficient guarantee that it was not likely to create any undue hardship to the public. I beg leave, however, to demur to that statement. The Criminal Law of England is, in the words of Sir Fitz James Stephen, 'founded on a set of loose definitions and descriptions of crimes'; and its development, as everybody knows, is due mainly to historical causes. As observed by Sir Reymond West, "the framers of the Indian Penal Code regarding the English system as 'artificial', 'complicated', framed without the slight reference to India', and 'very defective', declined to make it more than any local system the ground work of the Code." The case of conspiracy under the English law was pronounced by Lord Herschell to be "anomalous in more than one respect". Obviously, the English precedent is not in this respect of any intrinsic merit or universal applicability. Indeed, if it were not for the fact that the atmosphere in some parts of British India was then surcharged with grave danger which called for the creation of the offence of criminal conspiracy to enable the British Government to effectually control the situation, the Penal Law of India would not in this respect be brought into conformity with the Criminal Law of England. In Travancore, no change has come over the situation, and I submit there is no justification for encumbering our Statute Book with this new offence. For these reasons, I move that this Clause be omitted."

Mr. Govinda Menon seconded the amendment in the following terms:—

"I think that Travancore is the first Native State which is going to adopt this provision into the Penal Law of the State. So far as I am aware, Mysore and Cochin have not thought fit to incorporate this piece of legislation into their Penal Law. I do not see why we should give a lead in bringing this legislation which is questioned everywhere. Moreover, in British India, as Mr. Sesha Aiyar said, if one were to go through the proceedings of the Council which passed the measure, it will be seen that it was as a result of the dastardly outrage attempted to be made on the life of the Viceroy on the occasion of the Delhi Durbar that the provision had to be introduced. Had it not been for this circumstance, the measure would not have been brought forward and I do not think that it would have met with the support it received from the Non-official members. I took the trouble of reading the whole of the Imperial Council proceedings on the subject, extending over 200 pages, and I find from the speeches made by almost all the Non-official members that they all supported the measure even violently. They supported the measure more than the Official members themselves. Almost all those Non-official members supported the measure because they feared that if they did not do so they would be treated as disloyal. It was on that account that that measure received support. The present provision which is of a doubtful character should not, I submit, be introduced into the Statute Book of this State in which the people are known to be thoroughly loyal and law-abiding, a fact which was only manifested a few weeks ago on the occasion of the Shastiabdapurthi of His Highness the Maha Raja. For these reasons, I protest against the provision contained in Clause 4, and I accordingly give my support to the amendment just now proposed by my friend Mr. Sesha Aiyar."

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Mr. Velu Pillai :—

"Sir,

I beg to second the amendment moved by my learned friend. In doing so, I wish again to protest, as earnestly as it is possible for me to do so, against the creation of this new offence of criminal conspiracy. I was the first to oppose its introduction into the Statute Book. Since then, I have tried to gather the opinion of several experienced and well informed men, and it is with much regret that I have to say that their opinion has been uniformly *against* the proposed Government measure. In fact I have not found a single individual to take up the other side. I have listened to and read with much attention what Mr. Subba Aiyar has said on behalf of Government and in support of the proposed legislation. I have also tried to see his point of view and to realize any strength in his case; again, I have to say with regret that I have not been convinced by his elaborate and ingenious argument. He might say, as he did a minute back, that I have not grasped the full import of the Bill. It is for this Council and the public outside to decide who it is that has not grasped the situation correctly.

When I spoke on the subject previously, I asked you, Sir, frankly whether the District Magistrates, the Commissioner of Police or the High Court had recommended the measure now before the Council and whether they had given any grounds in justification of it. Have specific instances of the failure of the *existing* law to deal with real offenders been cited to prove the necessity for the creation of this new offence of criminal conspiracy? The silence of the Government leaves the unpleasant impression that the Government is either starting the measure without absolute proof of its need, or that they do not care to take the Non-official members of the Council into confidence in regard to their reasons or to supply the information necessary to enable them to see the Government point of view better. The alternatives are equally unsatisfactory. I cannot honestly conceive of the utility of Non-officials giving their services to help the Government in the work of legislation if they are to be denied reasonable assistance and information *especially after such help is sought*, although the Government did not see the propriety of granting the information unasked out of a sense of courtesy and equity. If in addition to all this the Government is unable to give any *specific* and valid proof of necessity for their proposed Bill, their position is inconceivably worse.

When the similar measure was brought up by the Government of India the Mover frankly gave the instances which justified it. It might be said that the sanction of Government under which prosecutions will have to be started will prevent the abuse of the law. The conditions of Travancore are quite different from those of British India. India is immensely larger than our little State, and to move an Indian Administration requires very much more persuasiveness than to move the administration of a small State. Further, in British India, safeguards of a *constitutional* nature exist which would make an abuse of the power of starting prosecution under their law to some extent react on the sanctioning administration. We have no similar safeguards yet here. In the net result, even a verbal copy of the British Indian Law on the subject is bound to work greater hardship in our State than it ever can in British India. There might have been a *need* for arming Government with this power in British India and the instances referred to by Sir Regenald Craddock appear to justify the introduction of the new law of criminal conspiracy. But we have yet to hear of such instances in our peaceful State where political crimes are unknown. I know, sir, that Non-official protests will not deter this Government from passing the present Bill, if they are resolved on doing so. We, the Non-official members, are a minority and are quite aware of our weakness. But the *cause* for which we stand does not share our weakness. And, on behalf of the people who will suffer by the innumerable chances for private as well as Police, Magisterial or other administrative oppression that this law will open out in the opportunities given for malicious and vexatious prosecutions, I would *again* beg you to pause and consider the *ultimate* as well as the immediate results of this unsatisfactory Bill. It is easy for Government to make this wrong move and to create a new offence. It will *not* be easy to correct its evil consequences. Once the law is embodied on the Statute Book, administrative prestige will always see that plausible reasons exist for the retention of the law. *We* know this from experience, and it is on this ground that I base my appeal to the Council to accept the amendment just moved."

Mr. Subrahmanya Pillai :—

"I have already expressed my opinion regarding this provision when the Bill first came into the Council and it is also contained in the dissenting memorandum submitted along with the Select Committee's report. I still maintain the same views and I am strongly against the retention of this Clause. My friends have already said enough on this point and I do not mean to speak again on the subject. I am in favour of the amendment proposed".

President :—

"With regard to the amendment proposed by Mr. Sesha Iyer, I may say that, in deference to the opinion of the Non-official members, Government resolve to delete this Clause."

Mr. Sesha Aiyar's amendment was carried.

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CLAUSE 5.

Mr. Govinda Menon moved that the words 'or the subjects of Her Majesty the Queen Empress of India' occurring in Clause 5 and the explanation thereto be omitted.

Seconded by Mr. Sesha Aiyar.

Mr. Velu Pillai expressed himself against the amendment.

Mr. Govinda Menon's motion was carried.

Mr. Sesha Aiyar then moved that the words "the several classes of people in Our territory" be substituted for "different classes of Our subjects" in the Clause.

Seconded by Mr. Govinda Menon.

Carried.

CLAUSE 14.

Mr. Sesha Aiyar moved that Clause 14 be omitted, as a consequance of the omission of Clause 4.

Seconded by Mr. Govinda Menon.

Carried.

Mr. Subba Aiyar :—

"I beg to draw the attention of the Council to a mistake which has crept in in the printed Bill as revised by the Select Committee. Clause 16 regarding the amendment of Section 236 A of the Criminal Procedure Code was added to the original Bill with the permission of the Council, and the Select Committee did not suggest any modification with reference to the same. It ought to have been printed as the last Clause, but the proper place for it will be between Clauses 14 and 15 of the revised Bill. I therefore beg to move that the Clause be put in before Clause 15."

Seconded by Mr. Vieyra.

Carried.

CLAUSE 16.

Mr. Sesha Aiyar moved that, in consequence of the removal of Clause 4, sub-clause (*a*) of Clause 16 be also omitted.

Seconded by Mr. Vieyra.

Carried.

Mr. Subba Aiyar then moved that the Bill, as settled by the Council, be read again on a future day of which notice should be given.

Seconded by Mr. Vieyra.

Carried.

The Council adjourned at 1-45 P. M.

M. KRISHNAN NAIR,
President.

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